

Notice of Allowability

Application No.

10/716,434

Applicant(s)

TESHIMA ET AL.

Examiner

Christopher RoDee

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1756

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to election on 5/14/04.
2. ☒ The allowed claim(s) is/are 1 and 2.
3. ☒ The drawings filed on 20 November 2003 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/959,952.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 11/20/03
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

Cancel claims 3 and 4, non-elected without traverse, in accordance with MPEP 821.02.

The following is an examiner's statement of reasons for allowance: the prior art of record does not disclose or suggest a dry toner for electrophotography having releasing agent particles dispersed in a binder resin of colored resin particles and a releasing agent layer interleaved (i.e., interposed, see spec. p. 39, l. 25) between the colored resin particles and a resin coating layer. Muto *et al* in US Patent 5,429,901 discloses toner comprising core particles having a thermoplastic resin and a coloring agent, a releasing agent in the form of particles over the core particles, and a chargeable resin surface layer (Abstract; col. 4, l. 66 – col. 5, l. 4). The releasing agent is taught as being near the surface of the toner (col. 5, l. 16-25). There is no disclosure of having releasing agent particles dispersed in the binder resin of these particles. JP 4-182669 also discloses a toner having a layer containing a releasing agent (see Figure 1 & English Abstract), but this reference does not disclose releasing agent particles dispersed in the binder resin in the core particles of the toner. Anno *et al*. in US Patent 5,204,205 discloses a toner having three layers. The core contains a releasing agent (col. 16, l. 47-68; note polypropylene) but there is no disclosure of this releasing agent in the form of particles. Further, there is no indication of a releasing agent layer in the orientation claimed. The intermediate layer of Anno contains a styrene-acrylic copolymer(s), but there is no disclosure of releasing

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agent characteristics for this layer. The art as a whole fails to render obvious the instant claims for these reasons.

The non-elected claims are not subject to rejoinder per MPEP 821.04 because the process of making the toner does not contain all the limitations of the allowed product claims. For example, the process does not require the releasing agent to be present in the binder resin in the form of particles, particularly after the core particles containing the releasing agent have been subjected to the process steps recited. Because these claims are non-elected without traverse and applicants have noted their right to file a divisional application on the non-elected claims, the non-elected claims are properly canceled per MPEP 821.02.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher RoDee whose telephone number is 571-272-1388. The examiner can normally be reached on most weekdays from 6:00 to 4:30.

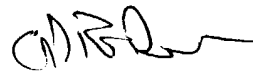
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff can be reached on 571-272-1385. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



CHRISTOPHER RODEE
PRIMARY EXAMINER

cdr
15 June 2004